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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,835	04/15/2004	Julia B. Mark	P1102.14005	8773
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BIRDWELL & JANKE, LLP 1100 SW SIXTH AVENUE SUITE 1400 PORTLAND, OR 97204			EXAMINER CARTER, MONICA SMITH	
			ART UNIT 3722	PAPER NUMBER

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,835

Applicant(s)

MARK, JULIA B.

Examiner

Monica S. Carter

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/18/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15,17-25 and 27-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-15,17-25 and 27-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 08/09/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 15 recites the limitation "said pictures" in line 2. There is insufficient antecedent basis for this limitation in the claim.

3. Claims 28-30, 32, 38 and 42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation of identifying an animal within visual range of an observer fails to further limit the method of *carrying and viewing information* as set forth in the independent claims.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4-12, 14, 17-24, 27, 28, 31, 32, 34, 35, 37, 38, 40-42, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss (1,407,239) in view of Davis (6,530,509).

Weiss discloses a wearable book comprising a plurality of pages (D – tablet which would, inherently, have a plurality of pages) having information thereon (as seen in figures 1 and 2), connected by a connector (16) to a loop (17) adapted for encircling a first body portion (wherein the examiner considers the first body portion to be the wrist of the user as seen in figure 1) for attaching the pages to the body, wherein the pages are of substantially the same size and shape as each other and having corresponding first edges bound together at the first edges (as seen in figures 4 and 5).

Weiss discloses the claimed invention except for the pages being connected by at least two spaced apart connectors to a loop.

Davis discloses a wearable case for writing materials comprising a main body portion for receiving a pad of paper (C) including four slots (200) in the bottom (201) of the body portion. A wristband (202) is threaded through the slots (as seen in figure 2). The slots provide two spaced apart connectors (as seen in figure 2). Therefore, it would have been obvious to one having ordinary skill in at the time of the invention to modify Weiss' device to include two spaced apart connectors, as taught by Davis, to provide a more secure attachment for the device.

Regarding claims 4, 5, 17 and 18, Weiss, as modified by Davis, discloses the pages being made of any suitable material (see col. 2, lines 100-112). Inherently, this would include the pages comprising a synthetic paper of any number of layers. As seen in figures 1 and 2 of Weiss, the pages receive printing inks.

Regarding claims 6-11, 19-23, 27, 28, 31, 32, 37, 38 and 40-42, Weiss, as modified by Davis, discloses the claimed invention except for the specific arrangement

Art Unit: 3722

and/or content of indicia (picture of an animal, plant, fungus, astronomical object, rock or mineral, first language or second language) set forth in the claim(s). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any desired indicia on the page, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of book does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate which is required for patentability.

Regarding claims 12 and 14, Weiss, as modified by Davis, discloses the claimed invention except for the claimed elasticity of the loop. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any elasticity value for the loop, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 24, Weiss, as modified by Davis, inherently discloses the method of carrying and viewing information as set forth in the above rejections to claim 1.

Art Unit: 3722

Regarding claims 34 and 45, Weiss, as modified by Davis, inherently discloses binding the tablet before binding them to the loop, since the tablet is formed prior to being placed in the device.

Regarding claim 35, Weiss, as modified by Davis, inherently discloses the method of carrying and viewing information as set forth in the above rejections to claim 1. The examiner considers the first body portion to be the hand of the user which has a larger circumference than the wrist of the user (the second body portion).

Regarding claim 44, see the above rejections to claim 1.

6. Claims 2, 15, 25, 29, 30, 33, 36, 39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss in view of Davis and further in view of Melcher (6,773,034).

Weiss, as modified by Davis, discloses the claimed invention except for explicitly disclosing the pages and the information being substantially resistant to immersion in water. Weiss discloses that the pages are made of any suitable material (see col. 2, lines 100-112):

Melcher discloses that it is known in the art to provide a durable, waterproof book using synthetic water-proof paper in combination with a water-proof glue and/or water resistant thread for binding the pages of the book (see col. 1, lines 6-12). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the book of Weiss to be water-resistant, as taught by Melcher, to

Art Unit: 3722

maintain the integrity of the book should the book be exposed to moisture and other wet conditions.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss in view of Davis and further in view of Wada ('054).

Weiss, as modified by Davis, discloses the claimed invention as set forth above except for the loop being an elastic loop formed of plastic in a helical, spring-like configuration.

Wada discloses a picture book comprising a helical, spring-like configuration (as seen in figure 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify Weiss's invention by replacing the loop with an elastic loop formed of plastic in a helical, spring-like configuration, as taught by Wada, to provide the loop with a greater flexibility such that it may be encircled around larger portions of the body.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 2, 4-15, 17-25 and 27-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica S. Carter whose telephone number is (571) 272-4475. The examiner can normally be reached on Monday-Thursday (6:00 AM - 3:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 9, 2005

Monica S. Carter

**MONICA S. CARTER
PRIMARY EXAMINER**